

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION**

NATELA MCKOY,

Plaintiff,

NO. 3:10 CV 00494

v.

**CHARLOTTE-MECKLENBURG
SCHOOLS,**

Defendant.

DEFENDANT'S MOTION TO DISPENSE WITH MEDIATION

NOW COMES Defendant, CHARLOTTE-MECKLENBURG BOARD OF EDUCATION¹, by and through its counsel, pursuant to Local Rule 7.1, and moves this Court to enter an Order dispensing with mediation in the above-captioned matter. In support of its Motion, Defendant shows the Court as follows:

1. On November 23, 2010, this Court appointed M. Ann Anderson as the mediator for this case. (D.E. 5.) The Court set a deadline of April 15, 2011, for the parties to conduct a mediated settlement conference. *Id.*

2. Beginning on March 17, 2011, the undersigned counsel for Defendant has made several attempts to contact the *pro se* Plaintiff and obtain a date and time agreeable to Plaintiff to conduct the mediated settlement conference. Counsel for Defendant sent two letters to Plaintiff, spoke with Plaintiff briefly over the phone on March 24, 2011, and left Plaintiff a detailed phone message on March 25, 2011. Each time, counsel for Defendant asked Plaintiff to contact her regarding dates that Plaintiff is available for mediation prior to the Court's deadline of April 15, 2011. Plaintiff has not responded to counsel for Defendant.

¹ Defendant's proper name is Charlotte-Mecklenburg Board of Education, although Plaintiff captioned the action against Charlotte-Mecklenburg Schools.

3. Additionally, Ms. Anderson has been attempting to schedule a date for the mediation. The date originally set for the mediation was April 11, 2011. Plaintiff notified Ms. Anderson and Ms. Anderson's mediation coordinator that the date would not work for her. Ms. Anderson advised counsel for Defendant that she is aware of no additional dates that will work for Plaintiff and, based upon conversations with Plaintiff, believes that, subject to the Court's approval, mediation in this matter should not go forward.

4. Defendant has a pending Motion for Summary Judgment, filed with this Court on March 22, 2011. (D.E. 9 and 10.)

5. In light of all the foregoing facts, counsel for Defendant believes that a mediated settlement conference would be futile.

6. Counsel for Defendant is not aware of any objection by Plaintiff to this motion. Mediator M. Ann Anderson consents to this motion.

7. This motion is made in good faith and not for the purpose of delay.

WHEREFORE, Defendant respectfully requests that that this Court grant its Motion and enter an Order dispensing with the Court-ordered mediated settlement conference in this matter.

This the 8th day of April, 2011.

FISHER & PHILLIPS, LLP

/s Margaret M. Kingston
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CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing Defendant's Motion to Dispense with Mediation with the Clerk of Court using the CM/ECF system. I hereby certify that I have mailed a copy of the foregoing document via United States mail postage prepaid to:

Ms. Natela V. McKoy
10235 Kirkmont Drive
Charlotte, North Carolina 28269

Ms. Ann Anderson
214 East Marion Street
P. O. Box 93
Pilot Mountain, North Carolina 27041

This the 8th day of April, 2011.

/s Margaret M. Kingston
NC Bar No. 34837